

REMARKS

In an Office Action mailed January 12, 2006, the Examiner rejected claims 3-7 under 35 USC 103 as being obvious over USP 6,450,996 of CA 2,292,168 to Ostubo in view of USP 4,938,753 to Van Gompel and PCT Publication No. WO/98/27907 to Putzer. Applicants have rewritten claim 3 in independent form as amended claim 1, which is the sole independent claim pending in this application. Accordingly, no new subject matter is being introduced that would require additional searching.

Claim 1 recites that “said backsheet comprises *at least one fold* formed along at least one of said opposite side regions,” and that “said retention portion comprises *at least one fold* formed along at least one of said opposite side regions, wherein *said at least one fold of said retention portion is interfolded with said at least one fold of said backsheet.*” In addition, the “at least one fold of each of said backsheet and said retention portion is *unfoldable* along at least said opposite ends of said absorbent composite.” Applicants submit that claim 1, and all claims depending therefrom, are patentable over the asserted prior art combination.

In particular, both Ostubo and Putzer teach against any combination of those references. For example, and without limitation, Ostubo discloses that the “body waste disposal sheet 2 is prevented from being unintentionally separated from the absorbent unit when the pleats 18 in the front and rear waist regions are unfolded to wear the diaper or during use of the diaper” (Ostubo at Col. 3, lines 64-67). In other words, Ostubo discloses that the *end portions can be unfolded* during use, but that *middle portion* is prevented from being unfolded during use by way of bonding spots 20 (Col. 3, lines 19-67).

Significantly, Putzer teaches the exact opposite! Indeed, the Examiner previously cited Putzer as disclosing “a diaper with a fold in the backsheet which extends the length of the diaper and is *tacked at the front and back waistband so that the folds do not unfold*” (July 11, 2005 Office Action at 2, para. 2; at 4, para. 3(emphasis added)). Putzer further discloses that “the pleats allow the backsheet to expand away from the wearer’s body surface *in the crotch region* while maintaining a

close fit in the front and back waistband regions and preventing any leakage in those areas” (Putzer at 9, lines 3-11 (emphasis added)). As such, one is hard pressed to find two references more divergent in their teachings relative to the formation of pleats. Accordingly, there simply is no suggestion to combine the references and the Examiner’s rejection should be withdrawn.

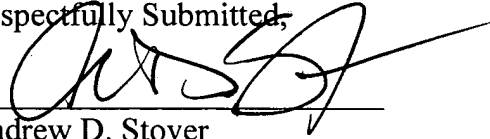
In this respect, it is important to emphasize that the Examiner cannot simply pick and choose an isolated element (e.g., the folded retention portion) from Putzer without considering the references in their entirety (MPEP 2143). Indeed, the proposed combination would change the principle of operation of the references and render them unsatisfactory for their intended purposes (MPEP 2143.01). Moreover, in this same vein, Ostubo teaches against the desirability of a folded retention portion since the absorbent garment is not intended to expand in the crotch region during use (Ostubo at Col. 3, lines 65-67), in contrast to Putzer (see Page 9).

For these reasons, claims 1, 2 and 4-18 should be passed to allowance and notice to that effect is earnestly solicited.

CONCLUSION:

If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

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Respectfully Submitted,

By: _____
Andrew D. Stover
Reg. No. 38,629
Attorney for Applicants

BRINKS HOFER GILSON & LIONE LTD.
Post Office Box 10395
Chicago, Illinois 60610
(312) 321-4200